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Attorney for Defendant Home Depot U.S.A., Inc.

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
DEPARTMENT OF EUGENE

TROY BACHELLER,

Plaintiff,

v.

HOME DEPOT U.S.A., INC.,

Defendant.

NO.

DEFENDANT HOME DEPOT U.S.A.,
INC.'S NOTICE OF REMOVAL

DEMAND FOR JURY

**To: Clerk of The Court, United States District Court For The District Of Oregon,
Eugene Division.**

PLEASE TAKE NOTE that Defendant Home Depot U.S.A., Inc. (hereinafter “Home Depot”) hereby removes to this Court the State action described below in accordance with 28 U.S.C. §§ 1332, 1441 and 1446. As grounds for removal, Home Depot respectfully states:

I. STATE COURT ACTION

1. The State Court action to be removed is *Troy Bacheller v. Home Depot U.S.A., Inc.*, Benton County Circuit Court Case No. 21CV16132 (Plaintiff’s Complaint – **Exhibit A**).

II. TIME FOR REMOVAL

2. Plaintiff filed his action in Benton County Circuit Court on April 27, 2021. The Complaint was served on Home Depot on May 3, 2021. Pursuant to 28 U.S.C. § 1446(b), a party may remove an action to Federal District Court within 30 days of service of process. Home Depot therefore has until June 2, 2021 or 30 days after service of Plaintiff's Complaint to move for removal to this Federal District Court. 28 U.S.C. § 1446(b).

III. BASIS FOR REMOVAL

3. A party may seek removal of a State Court action where the amount in controversy exceeds \$75,000 and the action is between citizens of different states. 28 U.S.C. § 1332(a)(1).

A. Amount in Controversy

4. Plaintiff's Complaint seeks \$500,000.00 in damages. **Exhibit A.**

B. Diversity of Citizenship

5. This is a personal injury action arising from damages allegedly sustained by Plaintiff while shopping at a Home Depot store in Corvallis, Oregon.

6. Upon information and belief, Plaintiff is a resident of the State of Oregon.

7. The Complaint named Home Depot as the only defendant. Home Depot was, and currently is, incorporated in the State of Delaware with its principal place of business in Georgia (*see* Declaration of Robert Parker (hereinafter "*Decl. RP*")). For the purposes of removal based on diversity jurisdiction, Home Depot is a citizen of Delaware. 28 U.S.C. § 1332 (C)(1); *Hertz Corp. v. Friend*, 559 US 77 (2010).

8. The underlying State Court Action is one in which this Court has original jurisdiction under the provisions of Title 28, United State Code, Section 1332, and is one which may be removed to this Court by Home Depot, pursuant to the provisions of Title 28, United States Code, Section 1441, in that it is a civil action wherein the amount in

controversy exceeds the sum of Seventy-Five Thousand Dollars (\$75,000), exclusive of interest and costs, and is between entities of different states.

IV. NOTICE TO STATE COURT AND ADVERSE PARTIES

9. Home Depot will promptly file a copy of this Notice with the clerk of the Benton County Circuit Court and will give written notice to all adverse parties. 28 U.S.C. §1446(d).

10. In accordance with 28 U.S.C. § 1446, attached are the following documents which have been served on Home Depot: **Exhibit A** – Complaint; and **Exhibit B** – Summons.

V. JURY DEMAND

11. As permitted by Fed. R. Civ. P. 38, Fed. R. Civ. P. 81(c)(3), Home Depot hereby respectfully demands a trial by jury of twelve of all issues triable of right by jury.

VI. INTRADISTRICT ASSIGNMENT

12. This matter should be assigned to the Eugene Division, as the alleged events in this matter arose in Benton County, making the Eugene Division the appropriate venue. Local Rule 3.

WHEREFORE, Home Depot requests that this action, *Troy Bacheller v. Home Depot U.S.A., Inc.*, Benton County Circuit Court Case No. 21CV16132, be removed to the United States District Court for the District of Oregon, Eugene Division.

DATED this 1st day of June, 2021.

HOLT WOODS & SCISCIANI LLP

By: s/ Robert Parker
Robert Parker, OSB No. 174306
Attorney for Home Depot U.S.A., Inc.

CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Oregon, that the following is true and correct:

I am employed by the law firm of Holt Woods & Scisciani LLP.

At all times hereinafter mentioned, I was and am a citizen of the United States of America, a resident of the State of Washington, over the age of eighteen (18) years, not a party to the above-entitled action, and competent to be a witness herein.

On the date set forth below I served the document(s) to which this is attached, in the manner noted on the following person(s):

PARTY/COUNSEL	DELIVERY INSTRUCTIONS
<u>CO /Plaintiff</u> S. Matthew Lind OlsenDaines, P.C. 3995 Hagers Grove Road SE Salem, OR 97317 mlind@olsendaines.com	<div style="display: flex; align-items: center;"> <div style="margin-right: 10px;"> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> </div> <div> Via U.S. Mail Via E-Mail Via Messenger Service Via CM/ECF Service </div> </div>

DATED this 1st day of June, 2021 in Seattle, Washington.

s/Christie Kramer

Christie Kramer, Legal Assistant